

11 November 2014

The Secretary
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Attention: Fiona Gibson

Dear Fiona,

RE: THOMAS STREET CAR PARK SITE CHATSWOOD MODIFICATION 15 OF MP09_0066

I refer to the notification of Modification 15 to MP09_0066 proposed by Meriton Property Services that request wording changes to conditions C47, E35, E37, E41, E42 and E45. Council notes that the requested changes concern timing of the commitment required by the conditions.

Council has considered the requested changes and acknowledges that the current conditions do not adequately deal with the staging of construction and timing of the occupation certificates for the stages. Nevertheless there are matters relating to the conditions where, if a change is to be made to the timing of a condition, there still needs to be a commitment to meeting the condition especially having regard to the processes in the LPI.

As a result Council comments as follows:

Condition C47

Condition C47 provides for the provision of a median strip in Albert Avenue to prevent the right turn movement into the driveway from Albert Avenue prior to an occupation certificate. The requested change is to qualify the condition to enable a temporary arrangement to be put in place while construction work is still occurring to the above ground development but will allow for the release of an occupation certificate for the below ground public car park that is to be handed over the Council.

Council has no objection to the addition of a paragraph subject to a minor modification as follows:

In the event that the median strip works have not been completed prior to the issue of an occupation certificate for the public car park then a temporary traffic barrier is to be installed to the satisfaction of Willoughby City Council that prevents right turn in and right turn out of the Albert Avenue basement car park driveway. The temporary traffic barrier is to be replaced by the completed Medium strip works when (insert when to be done).

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Condition E35

Condition E35 concerns the requirement for rights of public access to the public plaza through the site and access to the public car park entry (easements in gross) from the plaza prior to an occupation certificate.

Council has no objection to amendment of the condition subject to ensuring that the form of the easement when lodged at the LPI for registration has been agreed to by Council as follows:

Prior to any occupation certificate for the basement car parking levels, a right of footway easement in gross in favour of Willoughby City Council for the public to enter, pass, re-pass, use and enjoy the plaza and access the public car park is to be approved by Willoughby City Council and lodged with the LPI for final registration over the land.

Condition E37

Condition E37 concerns the timing of the occupation certificate for the basement levels for stratum subdivision and hand over to Council of the public car park.

Council has no objection to an amendment subject to the wording properly dealing with the required timing as follows:

The subdivision to create the stratum lot for the public car parking facility for hand over to Willoughby City Council is to have the Subdivision Certificate issued by Willoughby City Council and be lodged with the LPI for final registration prior to the occupation certificate for the ground level or above ground level development in either building. Rights of vehicular, pedestrian and public access to the public car park stratum lot are to be approved by Council and lodged with the LPI for final registration in conjunction with the stratum subdivision. Hand-over of the public car park stratum lot to Willoughby City Council shall follow immediately upon registration of the subdivision.

Condition E41

Condition E41 concerns the reconstruction of Fleet Lane West prior to an occupation certificate for the basement levels.

Council has no objection to delaying the reconstruction of Fleet Lane West while construction work continues on the above ground development and the hoarding structure is still in place.

The words in brackets are recommended to be deleted and the following additional paragraph is recommended to be inserted into the condition:

The road and road pavement in Fleet Lane is to be reconstructed prior to the issue of an occupation certificate and use of the above ground development.

Condition E42

Condition E42 concerns the required road closure of part of Fleet Lane arising from the encroachment of the basement car park and mezzanine back of house for the serviced

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apartments into the Lane prior to occupation certificate. The Department is advised that the process of road closure will take time to complete gazettal. In the interim, Meriton Property Services will enter a lease with Willoughby City Council pursuant to s.149 of the *Roads Act 1993* to acknowledge the encroachment and use of the below road space by the development. The condition requires completion prior to an occupation certificate for the basement levels. As the lease cannot be signed until the lease lot is registered with LPI an adjustment to the wording of the notation to the condition is required as follows:

NOTE: This condition may be varied to the extent that an interim lease pursuant to the Roads Act 1993 is agreed to and approved by Willoughby City Council and ready for signing. The subdivision of Fleet Lane to create the leasehold lot below Fleet Lane is to have the Subdivision certificate issued by Willoughby City Council and be lodged with LPI for final registration.

Condition E45


Condition E45 requires reinstatement of the street light removed in Fleet Lane prior to an occupation certificate. Council has no objection to amendment of the condition as construction work is still continuing on the above ground development after the potential completion and hand over of the basement public car park. Council recommends the following amendment to the conditions:

Deletion of the words in brackets and addition of the following paragraph to the condition:

The light pole at the corner of Fleet Lane West and Albert lane is to be reinstated prior to an occupation certificate and use of the above ground development.

Council has considered the requested changes to the conditions of consent in Modification 15 and requests that the Department incorporate the above changes noting that the adjustments must still maintain the commitments, undertakings and purpose of each of the conditions.

Yours faithfully,



Greg Woodhams
ACTING GENERAL MANAGER